

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Nathaniel Blackburn, Alycia
Cauvin, Ariana Cauvin, Avery Cauvin, and Aaron
Cauvin, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

PETER M. CAUVIN,

Respondent-Appellant.

UNPUBLISHED
September 14, 2004

No. 253466
Wayne Circuit Court
Family Division
LC No. 03-419461

Before: Donofrio, P.J., and White and Talbot, JJ.

MEMORANDUM.

Respondent appeals as of right the order terminating his parental rights. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A petition seeking the termination of respondent's parental rights was filed after he pleaded no contest to a charge of first-degree criminal sexual conduct involving penetration of one of the children. Respondent participated in the trial through a phone conference from prison. Respondent's parental rights were terminated under MCL 712A.19b(3)(b), (g), (h), (j), and (k). On appeal, respondent argues that the court should have secured his physical presence at the hearing, and the evidence did not support the termination of rights.

Under MCL 712A.19b(3), the petitioner for the termination of parental rights bears the burden of proving at least one ground for termination. *In re Trejo Minors*, 462 Mich 341; 612 NW2d 407 (2000). Once the petitioner has presented clear and convincing evidence that persuades the court that a ground for termination is established, termination of parental rights is mandatory unless the court finds that termination is clearly not in the child's best interests. *Id.*, 355-356. Decisions terminating parental rights are reviewed for clear error. *Id.*, 356.

There was clear and convincing evidence to support the termination of respondent's parental rights where he was convicted of first-degree criminal sexual conduct involving one of the children, and there was no evidence that termination was not in the best interests of the children.

MCR 5.973(A)(3)¹ provided that a respondent has the right to be present at the termination hearing, or may appear through legal counsel. Counsel was present at the hearing and respondent was present via telephone. There is no indication in the record that respondent requested that he be physically present at the hearing. Further in light of the ground for termination, it was not necessary that the court be able to observe respondent's demeanor. The court did not err in proceeding through a phone conference.

Affirmed.

/s/ Pat M. Donofrio
/s/ Helene N. White
/s/ Michael J. Talbot

¹ Deleted effective May 1, 2003.